

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

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**Stephen E. Poulson,**  
Petitioner-Appellant,

v.

**Pottawattamie County Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 11-78-0098**  
**Parcel No. 7543-31-203-001**

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On October 19, 2011, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, Stephen E. Poulson, was self-represented and requested the appeal take place without hearing. The Pottawattamie County Board of Review designated Assistant County Attorney Leanne Gifford as its representative. The Appeal Board now having examined the entire record, written testimony, and being fully advised, finds:

***Findings of Fact***

Stephen E. Poulson, owner of residential property located at 7 Scarlet Oaks Road, Council Bluffs, Iowa, appeals from the Pottawattamie County Board of Review decision reassessing his property. The real estate was classified residential for the January 1, 2011, assessment and valued at \$203,040; representing \$53,445 in land value and \$149,595 in dwelling value.

Poulson protested to the Board of review on the ground that the property was not equitably assessed compared to other like properties under Iowa Code section 441.37(1)(a); and that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(b). The Board of Review denied the protest.

Poulson filed his appeal with this Board on the same grounds. Poulson claims \$165,000 is the actual value and is fair assessment. He seeks \$38,040 in relief.

The subject property consists of a one-story frame dwelling having 1580 square feet built in 1973. It is also improved with a one-story frame addition having 352 square feet built in 1980, and an attached garage of 528 square feet. The site consists of 0.60 acres of land and also a one-half basement with 544 square feet of finish.

To support his appeal grounds, Poulson submitted evidence of five properties. Comparable property number one is located at 22 Scarlet Oaks Road, just a few houses down the street from the subject property. In his opinion, it is similar in age, size, and construction. That property sold in 2005 for \$195,000 and resold in 2010 for \$171,000. Poulson states that in 2005 his property was assessed lower than the property at 22 Scarlet Oaks Road. Therefore he believes his property should be assessed lower than the comparable property for 2011. Poulson appealed his assessment in 2005, and the Board of Review reduced the value from \$200,000 to \$188,000. Poulson stated the Board of Review made this reduction because of the 2005 sale of 22 Scarlet Oaks at \$185,000. Given the evidence of the 2010 sale of \$171,000 and the action of the 2005 Board of Review, he feels the assessment for his property based on a percentage adjustment would be \$165,000.

Poulson submitted additional evidence to this Board regarding four other properties which are used both as equity and sales comparables. He compared the property characteristics, but made no adjustments to the comparables. His evidence indicated he believed the properties had offsetting adjustments. Comparable five was assessed at \$165,000 and had not recently sold. Also only three of the four comparables were sold. One of the sales was a 2009 sale which is not relevant for the 2011 valuation. This property provides limited evidence to Poulson's claims.

The Board of Review did not submit any additional evidence other than the certified record. However, a "trial brief" was submitted on behalf of the Board. The Board's position in general is that

Poulson failed to meet his burden of proving the ground for the protest by a preponderance of the evidence. It argues Poulson has not presented persuasive evidence that his property is assessed at a higher ratio than comparable properties. Regarding his claim of more than authorized by law, the Board of Review points out that the subject lot is 0.60 acres and the comparables are on smaller lots ranging from 0.20 acres to 0.46 acres. Poulson did not adjust for the difference in lot size and did not explain why no adjustment was necessary. Additionally, the Board of Review asserts the property at 84 Hillsdale Drive (which is a 2009 sale) is coded by the assessor's data as an abnormal sale, for which Poulson did not adjust. The record is not clear whether the sale of 84 Hillsdale Drive was an abnormal sale.

After reviewing all the evidence, we find Poulson failed to provide persuasive evidence in support of either his inequity or market value claim. His equity comparables do not show his property is assessed higher than comparable properties and his sales comparables do not establish the property is assessed for more than fair market value..

### ***Conclusions of Law***

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determined anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment*

*Appeal Bd.* 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove equity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable... (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

*Id.* at 579-580. The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). The evidence offered by Poulson does not establish inequity in the assessment under *Eagle Foods* or *Maxwell*.

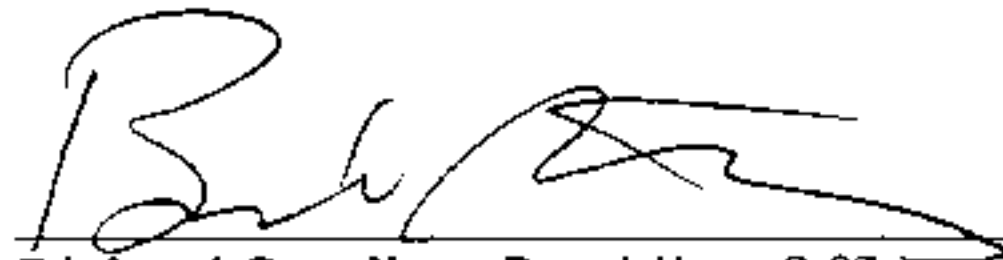
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). There is a statutory preference for establishing market values using sales of comparable

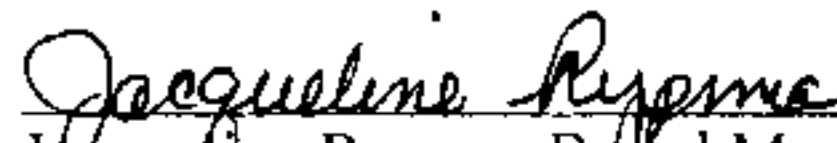
properties. *Soifer v. Floyd County Board of Review*, 759 N.W.2d 775,779 (Iowa 2009). The issue of comparability has two facets: the property must be comparable and the sale of that property must be a “normal transaction”. *Id.* at 782-83. When sales of other properties are offered, they must be adjusted for differences that affect market value. *Id.* at 783. These differences could include size, age, use, condition and location, among others. *Id.* In addition, if a sale is “abnormal” or not arms-length, it must be analyzed to determine if an adjustment is necessary. *Id.* Poulson’s evidence did not establish a market value for the subject property that is less than its assessment.

The evidence in the record does not support the claims brought before this Board. We, therefore, affirm the assessment of the subject property located at 7 Scarlet Oaks Road, Council Bluffs, Iowa, as determined by the Pottawattamie County Board of Review as of January 1, 2011.

THE APPEAL BOARD ORDERS the assessment of the Poulson property located at 7 Scarlet Oaks Road, Council Bluffs, Iowa, determined by the Pottawattamie County Board of Review is affirmed.

Dated this 23 day of December 2011.

  
Richard Stradley, Presiding Officer

  
Jacqueline Rypma, Board Member

  
Karen Oberman, Board Member

Copies to:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>12/22</u> , 2011.	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
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